(46)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.2550 /2006

Petitioner Mahesh Shukla, S/o. – Shri Siyaram Shukla, aged about 45 years, R/o. Village – Hardi, Tehsil – Janjgir, Distt. Janjgir-Champa, Chhattisgarh.

Versus

Respondents

1. Collector, Jajgir-Champa, Distt. Jajgir-Champa, Chhattisgarh.
2. Superintendent of Police, Janjgir-Champa, Distt. Janjgir-Champa, Chhattisgarh.
3. Station House Officer, Police Station- Baloda, Distt. Jajgir-Champa, Chhattisgarh.
4. Shri Geeta Prasad Miri, S/o. Shri Jeevanlal Miri, Aged about 27 years, R/o. Sarpanch Gram Panchayat-Hardi, Distti. Jajgir-Champa, Chhattisgarh.

Present : Shri Amrito Das, learned counsel for the petitioner.
Shri Utkarsh Verma, learned Dy. G.A. for respondents 1,2 and 3.

ORAL ORDER
(Passed on 16.6.2006)

The petitioner is a non-contestant for the post of Sarpanch of Gram Panchayat, Hardi in the District Janjgir-Champa. In this writ petition, the petitioner has challenged the election of the 4th respondent to the office of the Sarpach, Gram Panchyat, Hardi on the ground that the actual Date of Birth of the 4th respondent is 01.07.1984 and not 19.08.1979 as claimed by him. It is the contention of the counsel of the petitioner that as per the school certificate, the actual date of birth of the 4th respondent is 01.07.1984 and if it is so, on the relevant date the 4th respondent was ineligible to contest the election to the office of the Sarpanch. There is no need for this Court, at this stage, to

undertake the resolution of the factual dispute as to whether the actual date of birth of the 4th respondent is 19.08.1979 or 01.07.1984. I say this, because, the petitioner cannot maintain this writ petition for more than one reason. Admittedly, the petitioner was not a candidate for the office of the Sarpanch, Gram Panchayat, Hardi. Secondly, the election of the 4th respondent as Sarpanch of Gram Panchayat, Hardi was not assailed by the petitioner by way of an election petition and on the other hand, the election of the 4th respondent as Sarpanch of Gram Panchayat is allowed to stand. In an indirect way the petitioner cannot be permitted to seek annulment of election of the 4th respondent to the office of the Sarpanch, Gram Panchayat, Hardi. Furthermore, in a summary proceeding under Article 226 and 227of the Constitution, the Court cannot resolve factual controversy of the actual date of birth of the 4th respondent. Looking from any angle, this is not a fit case where this Court should step in under Articles 226 and 227 of the Constitution of India and permit the petitioner to raise dispute with regard to actual date of birth of the 4th respondent. Writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice